



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION  
312 North Spring Street, Room G-8  
Los Angeles, CA 90012  
Tel: (213) 894-3535

SOUTHERN DIVISION  
411 West Fourth Street, Suite 1053  
Santa Ana, CA 92701-4516  
(714) 338-4750

EASTERN DIVISION  
3470 Twelfth Street, Room 134  
Riverside, CA 92501  
(951) 328-4450

SHERRI R. CARTER  
District Court Executive and  
Clerk of Court

April 12, 2007

United States  
Courthouse, 16th Floor  
450 Golden Gate Avenue  
San Francisco, CA

**FILED**

**APR 16 2007**

RICHARD W. WEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

Re: Transfer to U.S. Magistrate Judge

Case No. MJ-07-500

4-07-70197-WDB

Case Title: USA V JOSE CLEMENTE LOPEZ-PADILLA

Dear Sir/Madam:

Pursuant to Rule 40 of the Federal Rules of Criminal Procedure, enclosed are the following:

- ☒ Certified copy of entire case file.
- ☒ Certified copy of docket sheet
- ☐ Letter re status of property bond
- ☐ Original bond enclosed
  - ☐ Original bond to be forwarded by the Fiscal Section
  - ☐ Certified copy of final commitment
  - ☐ Original Passport
  - ☐ Original Declaration re: Passport
- ☒ Other Document #5- NFPV

Please acknowledge receipt on the copy of this letter and return to this office.

Sincerely,

Clerk, U.S. District Court

By S. English

Deputy Clerk 213-894-3288

cc: U.S. Attorney (Central District of California)  
U.S. Attorney (Receiving district)

Receipt of the above-described documents is acknowledged herewith and assigned case number:

Clerk, U.S. District Court

Date

By

Deputy Clerk

CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

PLAINTIFF(S)

**Y.**

**DEFENDANT(S).**

CASE NUMBER

~~07-0500M~~

**AFFIDAVIT RE  
OUT-OF-DISTRICT WARRANT**

FILED

2007 APR 10 AM 10:49  
CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES  
*mu*UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

PLAINTIFF

CASE NUMBER

07-0500M

v.

4-07-70197

JOSE CLEMENTE LOPEZ - PADIHA

DEFENDANT(S).

REPORT COMMENCING CRIMINAL  
ACTION

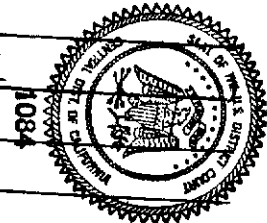
TO: CLERK'S OFFICE, U. S. DISTRICT COURT

All items are to be completed. Information not applicable or unknown will be indicated as "N/A".

1. Date and time of arrest 3/20/2007 0700 ☒ AM / ☐ PM
2. Charges under which defendant has been booked at Metropolitan Detention Center (MDC):  
8 USC 1326
3. Offense charged is a: ☒ Felony ☐ Minor Offense ☐ Petty Offense ☐ Other Misdemeanor
4. U.S. Citizen: ☐ Yes ☒ No ☐ Unknown
5. Year of Birth: 1973
6. The defendant is: ☒ Presently in custody on this charge.  
☐ At liberty on bond posted before a Magistrate Judge.  
☐ At liberty and warrant is requested.  
☐ Federal - In custody on another conviction.  
☐ State - In custody awaiting trial on these charges.
7. Place of detention (if out-of-district): U.S.M.S.
8. Date detainer placed on defendant: APRIL 3, 2007
9. This is a reprosecution of previously dismissed charges. (Docket/Case No. N/A)
10. Name of Pretrial Services Officer: N/A
11. Remarks (if any): N/A
12. Date: APRIL 10, 2007
13. Signature: Anthony Q. Settio
14. Name: ANTHONY Q. SETTIO
15. Title: FEA

I hereby attest and certify on 4-12-07  
that the foregoing document is a full, true  
and correct copy of the original on file in  
my office, and in my legal custody.

CLERK U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
DEPUTY CLERK *[Signature]*



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

vs.

Jose Clemente Lopez-Padilla

Plaintiff,

Defendant.

Western Division

Case Number: 2:07-MJ-00500  
Initial App. Date: 04/10/2007Out of District Affidavit  
Initial App. Time: 2:00 PMDate Filed: 04/10/2007Violation: 8:1326Tape Number: CS-4/10/07PROCEEDINGS HELD BEFORE UNITED STATES  
MAGISTRATE JUDGE: Margaret A. NagleCALENDAR/PROCEEDINGS SHEET  
LOCAL/OUT-OF-DISTRICT CASE

PRESENT:

Cindy De La Torre

Spanish

Deputy Clerk

Rod Castro-Silva  
Assistant U.S. Assistant

Interpreter/Language

☒ Defendant informed of charge and right to: remain silent; appointment of counsel, if indigent; right to bail; bail review and  
☒ preliminary hearing OR ☒ removal hearing / Rule 20.☒ Defendant states true name ☒ is as charged ☐ is \_\_\_\_\_☒ Defendant advised of consequences of false statement in financial affidavit. ☐ Financial Affidavit ordered SEALED.☒ Attorney: Humberto Diaz, DFPD ☒ Appointed ☐ Prev. Appointed ☐ Poss. Contribution (see separate order)☐ Special appearance by: \_\_\_\_\_☒ Government's request for detention is: ☒ GRANTED ☐ DENIED ☐ WITHDRAWN ☐ CONTINUED☒ Defendant is ordered: ☒ Permanently Detained ☐ Temporarily Detained (see separate order).☐ BAIL FIXED AT \$ \_\_\_\_\_ (SEE ATTACHED COPY OF CR-1 BOND FORM FOR CONDITION)☐ Government moves to UNSEAL Complaint/Indictment/Information/Entire Case: ☐ GRANTED ☐ DENIED☐ Preliminary Hearing waived.☐ PO/PSA WARRANT ☐ Counsel are directed to contact the clerk for  
District Judge \_\_\_\_\_ for the setting of further proceedings.☐ Preliminary Hearing set for \_\_\_\_\_ at 4:30 PM☐ PIA set for: \_\_\_\_\_ at 8:30 AM in LA; at 3:00 PM in Riverside; at 10:00 AM in Santa Ana☐ Government's motion to dismiss case/defendant \_\_\_\_\_ only: ☐ GRANTED ☐ DENIED☐ Defendant's motion to dismiss for lack of probable cause: ☐ GRANTED ☐ DENIED☒ Defendant executed Waiver of Rights. ☐ Process received.☒ Court ORDERS defendant Held to Answer to NO District of CA@ San Francisco☐ Bond to transfer, if bail is posted. Defendant to report on or before \_\_\_\_\_☒ Warrant of removal and final commitment to issue.☐ Warrant of removal and final commitment are ordered stayed until \_\_\_\_\_☐ Case continued to (Date) \_\_\_\_\_ (Time) \_\_\_\_\_ AM / PM

Type of Hearing: \_\_\_\_\_ Before Judge \_\_\_\_\_ /Duty Magistrate

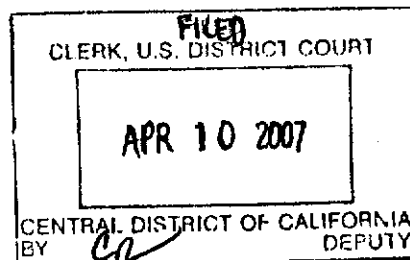
Proceedings will be held in the ☐ Duty Courtroom ☐ Judge's Courtroom☐ Defendant committed to the custody of the U.S. Marshal ☐ Summons: Defendant ordered to report to USM for processing☐ Abstract of Court Proceeding (CR-53) issued. Copy forwarded to USM.☐ Abstract of Order to Return Defendant to Court on Next Court Day (M-20) issued. Original forwarded to USM.☐ RELEASE ORDER NO: \_\_\_\_\_☐ Other: \_\_\_\_\_☐ PSA☐ FINANCIAL☐ READYDeputy Clerk Initials CP

ORIGINAL

GEORGE S. CARDONA  
Acting United States Attorney  
THOMAS P. O'BRIEN  
Assistant United States Attorney  
Chief, Criminal Division  
BRENTON P. GEE (Cal. SBN: 188048)  
Special Assistant United States Attorney

1200 United States Courthouse  
312 North Spring Street  
Los Angeles, California 90012  
Telephone: (213) 894-6875  
Facsimile: (213) 894-0141  
E-mail: brenton.p.gee@usdoj.gov

Attorneys for Plaintiff  
United States of America



## UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Jose Clemente Lopez-Padilla,

Defendant.

Case No. 07-500MGOVERNMENT'S NOTICE OF REQUEST  
FOR DETENTION

I hereby attest and certify on  
that the foregoing document is a true  
and correct copy of the original on file in  
my office, and in my legal custody.

CLERK U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

DEPUTY CLERK *[signature]*

4-2-07

Plaintiff, United States of America, by and through its  
counsel of record, hereby requests detention of defendant and  
notice of the following material factors:

1. Temporary 10-day Detention Requested (\$ 3142.60)  
on the following grounds:

a. offense committed while defendant was  
pending (felony trial), (sentencing) (appeal) or  
on (probation) (parole);

b. alien not lawfully admitted for permanent  
residence;



1               c. flight risk;

2               d. danger to community.

3          X   2. Pretrial Detention Requested (§ 3142(e)) because no  
 4                condition or combination of conditions will  
 5                reasonably assure against:

6          X   a. danger to any other person or the community;

7          X   b. flight.

8               3. Detention Requested Pending Supervised  
 9                Release/Probation Revocation Hearing (Rules  
 10                32.1(a)(6), 46(d), and 18 U.S.C. § 3143(a)):

11               a. Defendant cannot establish by clear and  
 12                convincing evidence that he/she will not pose a  
 13                danger to any other person or to the community;

14               b. Defendant cannot establish by clear and  
 15                convincing evidence that he/she will not flee.

16               4. Presumptions Applicable to Pretrial Detention (18  
 17                U.S.C. § 3142(e)):

18               a. Title 21 or Maritime Drug Law Enforcement Act  
 19                ("MDLEA") (46 U.S.C. App. 1901 et seq.) offense  
 20                with 10-year or greater maximum penalty  
 21                (presumption of danger to community and flight  
 22                risk);

23               b. offense under 18 U.S.C. § 924(c) (firearm  
 24                used/carried/possessed during/in relation to/in  
 25                furtherance of crime), § 956(a), or § 2332b  
 26                (presumption of danger to community and flight  
 27                risk);

1       \_\_\_ c. offense involving a minor victim under 18 U.S.C.  
 2       §§ 1201, 1591, 2241, 2242, 2244(a)(1), 2245,  
 3       2251, 2251A, 2252(a)(1)-(a)(3), 2252A(a)(1)-  
 4       2252A(a)(4), 2260, 2421, 2422, 2423 or 2425  
 5       (presumption of danger to community and flight  
 6       risk);

7       \_\_\_ d. defendant currently charged with (I) crime of  
 8       violence, (II) offense with maximum sentence of  
 9       life imprisonment or death, (III) Title 21 or  
 10       MDLEA offense with 10-year or greater maximum  
 11       sentence, or (IV) any felony if defendant  
 12       previously convicted of two or more offenses  
 13       described in I, II, or III, or two or more state  
 14       or local offenses that would qualify under I, II,  
 15       or III if federal jurisdiction were present, or a  
 16       combination of such offenses, AND defendant was  
 17       previously convicted of a crime listed in I, II,  
 18       or III committed while on release pending trial,  
 19       AND the current offense was committed within five  
 20       years of conviction or release from prison on the  
 21       above-described previous conviction (presumption  
 22       of danger to community).

23       X

24       5. Government Is Entitled to Detention Hearing  
Under § 3142(f) If the Case Involves:

25       \_\_\_ a. a crime of violence (as defined in 18 U.S.C.  
 26       § 3156(a)(4)) or Federal crime of terrorism (as  
 27       defined in 18 U.S.C. § 2332b(g)(5)(B)) for which  
 28

maximum sentence is 10 years' imprisonment or more;

\_\_\_\_ b. an offense for which maximum sentence is life imprisonment or death;

\_\_\_\_ c. Title 21 or MDLEA offense for which maximum sentence is 10 years' imprisonment or more;

\_\_\_\_ d. instant offense is a felony and defendant has two or more convictions for a crime set forth in a-c above or for an offense under state or local law that would qualify under a, b, or c if federal jurisdiction were present, or a combination or such offenses;

\_\_\_\_ e. any felony not otherwise a crime of violence that involves a minor victim or the possession or use of a firearm or destructive device (as defined in 18 U.S.C. § 921), or any other dangerous weapon, or involves a failure to register under 18 U.S.C. § 2250;

  X   f. serious risk defendant will flee;

\_\_\_\_ g. serious risk defendant will (obstruct or attempt to obstruct justice) or (threaten, injure, or intimidate prospective witness or juror, or attempt to do so).

\_\_\_\_ 6. Government requests continuance of \_\_\_\_ days for detention hearing under § 3142(f) and based upon the following reason(s):




1 \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_  
4 7. Good cause for continuance in excess of three days  
5 exists in that:  
6 \_\_\_\_\_  
7 \_\_\_\_\_  
8 \_\_\_\_\_  
9 \_\_\_\_\_

10 DATED: April 6, 2007

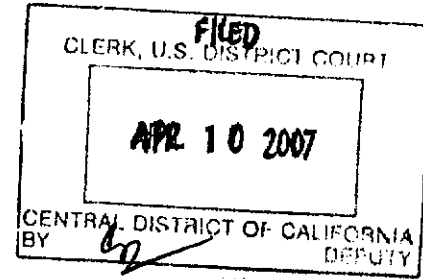
Respectfully submitted,

11 GEORGE S. CARDONA  
12 Acting United States Attorney

13 THOMAS P. O'BRIEN  
14 Assistant United States Attorney  
15 Chief, Criminal Division

16   
17 BRENTON P. GEE  
18 Special Assistant United States  
19 Attorney

20 Attorneys for Plaintiff  
21 UNITED STATES OF AMERICA  
22  
23  
24  
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26  
27  
28



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSE CLEMENTE LOPEZ-PADILLA,  
Defendant.

CASE NO. 07-500M

ORDER OF DETENTION

DEPUTY CLERK

CLERK U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

I hereby attest and certify on 4-12-07  
that the foregoing document is a full, true  
and correct copy of the original on file in  
my office, and in my legal custody.

I.

- A. ( ) On motion of the Government in a case allegedly involving
1. ( ) a crime of violence.
  2. ( ) an offense with maximum sentence of life imprisonment or death.
  3. ( ) a narcotics or controlled substance offense with maximum sentence of ten or more years .
  4. ( ) any felony - where defendant convicted of two or more prior offenses described above.
  5. ( ) any felony that is not otherwise a crime of violence that involves a minor victim, or possession or use of a firearm or destructive device or any other dangerous weapon, or a failure to register under 18 U.S.C § 2250.

B. ☒ On motion by the Government / ( ) on Court's own motion, in a case

ORDER OF DETENTION AFTER HEARING (18 U.S.C. §3142(i))

allegedly involving:

( ) On the further allegation by the Government of:

1. ☒ a serious risk that the defendant will flee.

2. ( ) a serious risk that the defendant will:

a. ( ) obstruct or attempt to obstruct justice.

b. ( ) threaten, injure, or intimidate a prospective witness or juror or attempt to do so.

C. The Government ( ) is/ ☒ is not entitled to a rebuttable presumption that no condition or combination of conditions will reasonably assure the defendant's appearance as required and the safety of any person or the community.

## II.

A. ☒ The Court finds that no condition or combination of conditions will reasonably assure:

1. ☒ the appearance of defendant as required.

☒ and/or

2. ☒ the safety of any person or the community.

B. ( ) The Court finds that the defendant has not rebutted by sufficient evidence to the contrary the presumption provided by statute.

## III.

The Court has considered:

A. the nature and circumstances of the offense(s) charged, including whether the offense is a crime of violence, a Federal crime of terrorism, or involves a minor victim or a controlled substance, firearm, explosive, or destructive device;

B. the weight of evidence against the defendant;

C. the history and characteristics of the defendant; and

D. the nature and seriousness of the danger to any person or to the community.

IV.

The Court also has considered all the evidence adduced at the hearing and the arguments and/or statements of counsel, and the Pretrial Services Report/recommendation.

V

The Court bases the foregoing finding(s) on the following:

A. ☒ As to flight risk:

The defendant is a citizen of Mexico and has been deported on three prior occasions. He is illegally present in the United States at this time. Further, he appears to have used multiple aliases.

B. ☒ As to danger:

He has an extensive criminal history and has sustained felony and misdemeanor convictions for drug related crimes.

VI

A. ☐ The Court finds that a serious risk exists the defendant will:

1. ☐ obstruct or attempt to obstruct justice.
2. ☐ attempt to/ ☐ threaten, injure or intimidate a witness or juror.

1 B. The Court bases the foregoing finding(s) on the following:  
2  
3  
4  
5  
6  
7  
8

9 VII  
10

11 A. IT IS THEREFORE ORDERED that the defendant be detained prior to trial.

12 B. IT IS FURTHER ORDERED that the defendant be committed to the custody  
13 of the Attorney General for confinement in a corrections facility separate, to  
14 the extent practicable, from persons awaiting or serving sentences or being  
15 held in custody pending appeal.

16 C. IT IS FURTHER ORDERED that the defendant be afforded reasonable  
17 opportunity for private consultation with counsel.

18 D. IT IS FURTHER ORDERED that, on order of a Court of the United States  
19 or on request

20 of any attorney for the Government, the person in charge of the corrections facility  
21 in which defendant is confined deliver the defendant to a United States marshal for  
22 the purpose of an appearance in connection with a court proceeding.  
23  
24  
25

26 DATED: April 10, 2007

Margaret A. Nade  
UNITED STATES MAGISTRATE JUDGE  
27  
28

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

PLAINTIFF

v.

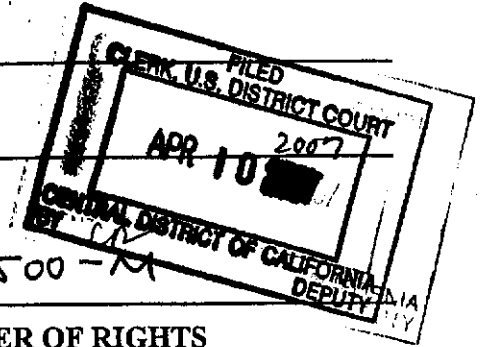
CASE NUMBER:

07-0500-M

Jose Clemente Lopez-Padilla

DEFENDANT.

**WAIVER OF RIGHTS  
(OUT OF DISTRICT CASES)**



I understand that charges are pending in the Northern District of California alleging violation of 8 & 1326 and that I have been arrested in this district and  
(Title and Section / Probation / Supervised Release)

taken before a United States Magistrate Judge, who has informed me of the charge(s) and my rights to:

- (1) have an identity hearing to determine whether I am the person named in the charges;
- (2) receive a copy of the charge(s) against me;

*-Check one only-*

☒ **EXCLUDING PROBATION OR SUPERVISED RELEASE CASES:**

- (3) have a preliminary examination (unless an indictment has been returned or an information filed) to determine whether there is probable cause to believe an offense has been committed by me, the hearing to be held in this district or the district of prosecution; and
- (4) request transfer of the proceedings to this district under Rule 20, Fed.R.Crim.P., in order to plead guilty.

☒ **PROBATION OR SUPERVISED RELEASE CASES:**

- (3) have a preliminary hearing (if the violation charged allegedly occurred in this district, and I am held in custody solely on that charge) under Rule 32.1(b), Fed.R.Crim.P., to determine whether there is probable cause to believe I have violated the terms of my probation/supervised release.

**I HEREBY WAIVE (GIVE UP) MY RIGHT(S) TO:**

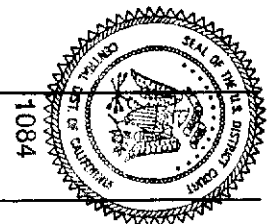
- I hereby attest and certify on 4-12-07 that the foregoing document is a full, true and correct copy of the original on file in the office, and in my legal custody.
- DEPUTY CLERK  
CLERK U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA
- ☒ have an identity hearing
- ☒ receive a copy of the charges(s) against me
- ☒ have a preliminary examination
- ☐ have an identity hearing, and I have been informed that I have no right to a preliminary examination
- ☐ have an identity hearing, but I request that a preliminary examination be held in the prosecuting district

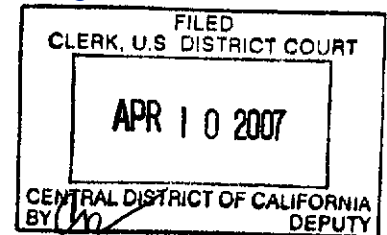
Jose Lopez Padilla  
Defendant

[Signature]  
Defense Counsel

Margaret A. Nagle  
United States Magistrate Judge

Date: 04/10/07





**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

vs.

Jose Clemente Lopez-Padilla

Plaintiff(s),

Defendant(s).

Case Number: 2:07-MJ-00500

**FINAL COMMITMENT AND WARRANT OF  
REMOVAL**

Northern District of California  
at San Francisco  
(City)

**To: United States Marshal for the Central District of California**

The above-named defendant is hereby remanded to your custody and you are hereby ORDERED to remove him/her forthwith, along with a certified copy of this Commitment, to the custodian of a place of confinement within the District of Origin, approved by the Attorney General of the United States, where the defendant shall be received and safely kept until discharged in due course of law.

This defendant was arrested in this District after:

- ☒ filing of a complaint before a U.S. Magistrate Judge  
U.S. District Judge/Magistrate Judge/Clerk from the District of Origin charging that on or about January 19, 2007, in the District of Origin, the defendant was ~~was~~ having been previously deported from the United States, was found in Contra Costa County in Northern California without having obtained express consent for re-application for admission in violation of Title(s) 8 USC 1326

The defendant has now:

- ☒ duly waived identity hearing before me on April 10, 2007.
- ☒ duly waived preliminary examination before me on April 10, 2007.

- ☒ Permanent detention has been ordered.

April 10, 2007

Date

*Margaret A. Nagle*  
Margaret A. Nagle

United States Magistrate Judge

I hereby attest and certify on 4-12-07  
that the foregoing document is a full, true  
and correct copy of the original on file in  
my office, and in my legal custody.  
CLERK U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
DEPUTY CLERK *Lyndy White*

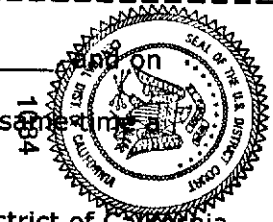
**RETURN**

Received this commitment and designated prisoner on \_\_\_\_\_  
\_\_\_\_\_, committed him to \_\_\_\_\_  
\_\_\_\_\_ and left with the custodian at the same time \_\_\_\_\_  
certified copy of the within temporary commitment.

United States Marshal, Central District of California

Date

Deputy



I hereby certify that the annexed instrument is a true and correct copy of the original issued in my office.  
ATTEST:

RICHARD W. WIERING  
Clerk, U.S. District Court  
Northern District of California

By: [Signature]  
Date: 4/3/07

Form 442 (Rev. 10/03) Warrant for Arrest

# UNITED STATES DISTRICT COURT

NORTHERN District of CALIFORNIA

UNITED STATES OF AMERICA  
V.

JOSE CLEMENTE LOPEZ-PADILLA

## WARRANT FOR ARREST

Case Number:

4-07-70197

07-0500M

To: The United States Marshal  
and any Authorized United States Officer

YOU ARE HEREBY COMMANDED to arrest

JOSE CLEMENTE LOPEZ-PADILLA

Name

and bring him or her forthwith to the nearest magistrate judge to answer a(n)

- ☐ Indictment ☐ Information ☒ Complaint ☐ Order of court ☐ Probation Violation Petition ☐ Supervised Release Violation Petition ☐ Violation Notice

charging him or her with (brief description of offense)

On January 19, 2007, the defendant Jose Clemente Lopez-Padilla, an alien having been previously deported from the United States, was found in Contra Costa County in the State and Northern District of California, without having obtained express consent for re-application for admission from either the Attorney General of the United States or his successor, the Secretary for Homeland Security (Title 6, United States Code, Sections 202(3), (4) and 557).

NO BAIL

in violation of Title 8

United States Code, Section(s) 1326

Edward M. Chen

Name of Issuing Officer

Signature of Issuing Officer

U.S. Magistrate Judge

Title of Issuing Officer

Date and Location

San Francisco, CA

### RETURN

This warrant was received and executed with the arrest of the above-named defendant at

DATE RECEIVED	NAME AND TITLE OF ARRESTING OFFICER	SIGNATURE OF ARRESTING OFFICER
DATE OF ARREST		



OA 91 Criminal Complaint

# United States District Court

NORTHERN

DISTRICT OF

CALIFORNIA

**ORIGINAL  
FILED**

UNITED STATES OF AMERICA  
V.

APR X 3 2007

CRIMINAL COMPLAINT

**4-07-70197**

**WDB**

Jose Clemente Lopez-Padilla

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Case Number:

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state that the following is true and correct to the best of my knowledge and belief. On or about January 18, 2007 in Contra Costa County, in the NORTHERN District of CALIFORNIA defendant(s) did,

(Track Statutory Language of Offense)

an alien having been previously deported from the United States, was found in Contra Costa County in the State and Northern District of California, without having obtained express consent for re-application for admission from either the Attorney General of the United States or his successor, the Secretary for Homeland Security (Title 6, United States Code, Sections 202(3), (4) and 557)

in violation of Title 8 United States Code, Section(s) 1326  
I further state that I am a(n) Deportation Officer and that this complaint is based on the following facts:

See Attached Affidavit incorporated herein by reference.

Maximum Penalties: 20 years imprisonment; \$250,000.00 fine; 3 years supervised release and \$100 special assessment.

Continued on the attached sheet and made a part hereof:

☒ Yes ☐ No

Approved Bryan R. Whittaker  
As To BRYAN R. WHITTAKER, Special Assistant U.S. Attorney  
Form: AUSA

Cecyle Andrews, Deportation Officer ICE  
Name/Signature of Complainant

Sworn to before me and subscribed in my presence,

Date

4/3/07

at San Francisco, California

City and State

EDWARD M. CHEN

U.S. Magistrate Judge

Name & Title of Judicial Officer

Signature of Judicial Officer

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

I, Cecyle J. Andrews, being duly sworn, do hereby state:

1. I am a Deportation Officer with the United States Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE"). I have been employed in this capacity since December 18, 1988.
2. I have reviewed the official Alien Registration File and the automated criminal records relating to Jose Clemente Lopez-Padilla ("Lopez"), which attest to the following:
  - a. Lopez is a thirty-three (33) year-old male, native and citizen of Mexico, who last entered the United States illegally by crossing the international border on an unknown date in 2004, at or near Nogales, Arizona, in an unknown manner, without first having obtained the consent of the Attorney General of the United States or the U.S. Secretary of Homeland Security.
  - b. Lopez's official Alien Registration File contains executed Warrants of Deportation indicating that Jose Clemente Lopez-Padilla was deported from the United States to Mexico through Nogales, Arizona on March 2, 1998 and August 23, 2001, and through Otay Mesa, California on March 6, 2004.
3. On January 19, 2007, Immigration and Customs Enforcement Officers encountered Lopez in Santa Rita County Jail pursuant to his arrest on unrelated charges. On that same date, an immigration detainer was lodged.

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4. On March 9, 2007, Immigration Enforcement Officer Ken Porter interviewed Lopez at Santa Rita County Jail. Lopez provided a sworn statement in which he admitted that he was a citizen and national of Mexico, and that he had been previously deported to Mexico.
5. On March 29, 2007, a full set of rolled fingerprints belonging to Lopez were submitted to the Automated Fingerprint Identification Center ("AFIS") for verification of identity. The fingerprint examiner positively identified the fingerprints as belonging to the same Jose Clemente Lopez-Padilla who had previously been removed from the United States as referenced above in paragraph 2.
6. On March 22, 2007, Lopez was released to ICE's Lancaster Office in Southern California. Lopez's fingerprints and photos were submitted into the Auto Biometric Identification System ("IDENT"). IDENT information confirmed Lopez's identity.
7. There is no indication in the official files of the United States Department of Homeland Security that Lopez ever applied for or obtained the permission of the United States Attorney General or the Secretary of Homeland Security to reenter the United States.

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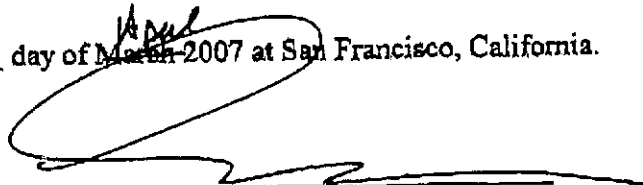
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8. Based upon the facts described above, I believe that there is probable cause that the defendant, Jose Cements Lopez-Padilla, having previously been deported from the United States, has been found in the United States without the required permission, and is in violation of Title 8, United States Code, Section 1326.



Cecyle J. Andrews  
Deportation Officer  
U.S. Department of Homeland Security  
Immigration and Customs Enforcement  
San Francisco, California

Subscribed and sworn to before me this 3 day of <sup>April</sup> March 2007 at San Francisco, California.



Honorable Edward M. Chen  
United States Magistrate Judge  
Northern District of California  
San Francisco, California

**U.S. District Court  
CENTRAL DISTRICT OF CALIFORNIA (Western Division - Los Angeles)  
CRIMINAL DOCKET FOR CASE #: 2:07-mj-00500-DUTY-ALL  
Internal Use Only**

Case title: USA v. Lopez-Padilla

Date Filed: 04/10/2007

Assigned to: Duty Magistrate Judge

**Defendant**

**Jose Clemente Lopez-Padilla (1)**  
*TERMINATED: 04/10/2007*

represented by **Humberto Diaz**  
Federal Public Defenders Office  
321 E 2nd St  
Los Angeles, CA 90012-4206  
213-894-2854  
Email:  
zzCAC\_FPD\_Document\_Receiving@fd.org  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: Public Defender or Community  
Defender Appointment*

**Pending Counts**

None

**Highest Offense Level (Opening)**

None

**Terminated Counts**

None

**Highest Offense Level (Terminated)**

None

**Complaints**

Defendant in violation of: 8:1326

**Disposition****Disposition****Disposition**

I hereby attest and certify on 4-12-07  
that the foregoing document is a full, true  
and correct copy of the original on file in  
my office, and in my legal custody.  
CLERK U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
*A. English*  
DEPUTY CLERK

Court ORDERS defendant to appear to  
Northern District of California at San Francisco.

**Plaintiff**

USA

represented by **US Attorney's Office**  
AUSA - Office of US Attorney  
312 N Spring St, 12th Floor  
Los Angeles, CA 90012-4700  
213-894-2434

Date Filed	#	Docket Text
03/20/2007		***Defendant Jose Clemente Lopez-Padilla ARRESTED (Rule 5(c)(3) (sce, ) (Entered: 04/12/2007)
04/10/2007	1	AFFIDAVIT RE: OUT-OF-DISTRICT WARRANT (Rule 5(c)(3)) filed as to defendant Jose Clemente Lopez-Padilla, originating in the Northern District of California, San Francisco. Defendant charged in violation of: 8:1326. Signed by agent Anthony Settle, DHS-ICE. (sce, ) (Entered: 04/12/2007)
04/10/2007	2	REPORT COMMENCING CRIMINAL ACTION as to Defendant Jose Clemente Lopez-Padilla; defendants Year of Birth: 1973; date of arrest: 3/20/2007. (sce, ) (Entered: 04/12/2007)
04/10/2007	3	Defendant Jose Clemente Lopez-Padilla arrested on warrant issued by the USDC Northern District of California at San Francisco. (sce, ) (Entered: 04/12/2007)
04/10/2007	4	MINUTES OF ARREST ON OUT OF DISTRICT WARRANT held before Magistrate Judge Margaret A. Nagle Defendant arraigned and states true name is as charged. Attorney: Humberto Diaz for Jose Clemente Lopez-Padilla, DFPD, present. Defendant remanded to the custody or currently in the custody of the US Marshal. Court orders defendant held to answer to Northern District of California at San Francisco. Warrant of Removal and final commitment to issue. (Spanish) INTERPRETER Required Tape #: CS 4/10/07. (sce, ) (Entered: 04/12/2007)
04/10/2007	5	FINANCIAL AFFIDAVIT filed as to Defendant Jose Clemente Lopez-Padilla. (sce, ) (Entered: 04/12/2007)
04/10/2007	6	NOTICE OF REQUEST FOR DETENTION filed by Plaintiff USA as to Defendant Jose Clemente Lopez-Padilla. (sce, ) (Entered: 04/12/2007)
04/10/2007	7	ORDER OF DETENTION by Magistrate Judge Margaret A. Nagle as to Defendant Jose Clemente Lopez-Padilla. (sce, ) (Entered: 04/12/2007)
04/10/2007	8	WAIVER OF RIGHTS approved by Magistrate Judge Margaret A. Nagle as to Defendant Jose Clemente Lopez-Padilla. (sce, ) (Entered: 04/12/2007)
04/10/2007	9	WARRANT OF REMOVAL AND COMMITMENT by Magistrate Judge Margaret A. Nagle that Defendant Jose Clemente Lopez-Padilla be removed to the Northern District of California at San Francisco. (sce, ) (Entered: 04/12/2007)
04/10/2007		***Magistrate Case Terminated (sce, ) (Entered: 04/12/2007)